

LAW OFFICES
HENRY E. CRAWFORD DOCKET FILE COPY ORIGINAL
SUITE 900
1150 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036
202-862-4395

E-Mail: crawlaw@wizard.net
Web: <http://www.wizard.net/~crawlaw>

TELECOPIER NUMBER
202-828-4130

May 21, 1997

RECEIVED

MAY 21 1997

Federal Communications Commission
Office of Secretary

BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re:

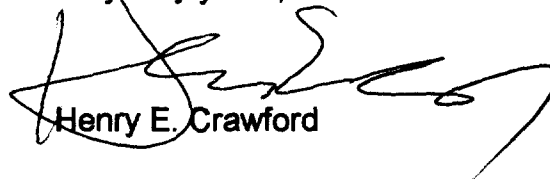
In the Matter of Electronic Filing of Documents in Rulemaking Proceedings
File No.: GC Docket No. 97-113

Dear Mr. Caton:

Transmitted herewith on behalf of The Law Offices of Henry Crawford are an original and four (4) copies of its "Comments of the Law Offices of Henry E. Crawford" as directed to the Commission.

Should any additional information be required, please contact this office.

Very truly yours,


Henry E. Crawford

No. of Copies rec'd
List ABCDE

0+3

DOCKET FILE COPY ORIGINAL

RECEIVED

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

MAY 21 1997

Federal Communications Commission
Office of Secretary

In the Matter of

Electronic Filing of Documents
in Rulemaking Proceedings

GC Docket No. 97-113

To: The Commission

COMMENTS OF THE LAW OFFICES OF HENRY E. CRAWFORD

Henry E. Crawford

Law Offices of
Henry E. Crawford
1150 Connecticut Avenue, N.W.
Suite 900
Washington, D.C. 20036
(202) 862-4395

May 21, 1997

TABLE OF CONTENTS

TABLE OF CONTENTS	i
I. INTRODUCTION	1
II. COMMENTS	1
A. Security And Preventing Abusive Filings	1
B. Informal Comments Should Be Treated Informally	4
C. Formats	5
1. Document Formats	5
2. Browser Formats	6
D. Desirability of Other Media	6
E. Citation to Documents	7
F. Page Limits	7
G. Filing Times	8
H. Service of Documents	8
I. File Names	9
III. CONCLUSION	9

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the Matter of

Electronic Filing of Documents
in Rulemaking Proceedings

GC Docket No. 97-113

To: The Commission

COMMENTS OF THE LAW OFFICES OF HENRY E. CRAWFORD

The Law Offices of Henry E. Crawford, respectfully submits its Comments in the above-captioned proceeding. In support thereof, the following is stated:

I. INTRODUCTION

1. On April 7, 1997, the Commission released its Notice of Proposed Rulemaking ("NPRM") in Electronic Filing of Documents in Rulemaking Proceedings, GC Docket No. 97-113. This firm wholeheartedly welcomes the advent of electronic filing and appreciates the opportunity afforded by the Commission to file comments in this matter. After reviewing the NPRM, we have the following comments and suggestions.

II. COMMENTS

A. Security And Preventing Abusive Filings

2. In the NPRM, the Commission expresses a number of concerns involving security, authentication and abusive filings. NPRM, ¶¶15-17. We believe that those concerns are well founded. The easy transfer of information that is made possible using the Internet could result in rulemaking dockets being

deluged with disingenuous and/or abusive filings. Individuals acting on the basis of distorted motives could cause no end of mischief by making numerous, repetitive filings. Copies of valid comments downloaded from the Commission's site could easily be doctored up or distorted in order to cause harm or confusion to either the parties or the Commission. Such information age vandalism is not uncommon at governmental sites on the World Wide Web. Moreover, parties could use electronic filing to launch mass e-mail campaigns in favor of a particular position being considered by the Commission. In this way, the Commission's decision-making processes could be substantially undermined.

3. Another concern that is raised by electronic filing involves the latest generation of document macro viruses. Unlike traditional viruses, these viruses operate on the basis of code that is contained in otherwise normal documents. They are hard to detect and remove with traditional virus checking software. Considering the large numbers of documents involved in a Commission rulemaking, macro viruses could enter the system with almost no record of where they came from.

4. One very simple approach that would address both security and abusive filing issues would be to require that all electronic filers register on a one-time basis with the Commission. At the time of registration, the filer would obtain a password that would have to be used whenever comments are filed. This approach is very common on the World Wide Web, even in the case of free downloads. It is nearly unheard of to allow parties to upload documents without

first obtaining some level of system permission and a password. The Commission's rulemaking dockets should be afforded no less security.

5. Requiring prior registration will offer several benefits to the parties and to the Commission. Having a list of all filers will make administration of the site much easier. The initial verification scripts will be easier to design and easier for the user because information about each party will be stored in the registration database. Confirmation will be simpler because the information can automatically be sent to the address specified by the filer at the time of registration. In the event of mischief or abuse, a filer would lose permission to access the system. This could not be done in the absence of a registration system. Finally, service lists for rulemaking proceedings could be electronically generated from the registration database. This would be of great help to the commenting parties as well as the Commission.

6. Registration would be open to all good faith filers. The additional burden of registration would be minor and not uncommon to users of the Internet. On the other hand, the gains would be enormous in terms of added security and prevention of abuse. The Commission could, at its discretion, charge a nominal fee for registration that would help it to recapture some of the administrative costs of running an electronic filing system. The Commission could also require potential filers to initially certify that they will use the system in good faith and that representations made before the Commission will be truthful and not in violation of any federal law. In any event, the Commission should adopt a password protected prior registration system.

B. Informal Comments Should Be Treated Informally

7. As the Commission notes in the NPRM, some dockets have received hundreds of thousands of electronic comments. NPRM, ¶3. According to the Administrative Procedures Act, each of these filings is entitled to substantial review. If these filings are to be afforded the same weight as regularly filed comments, failure to sufficiently review any one of these comments, could be the basis for overturning a Commission decision. See 5 U.S.C. §553(c); see also, e.g., Action for Children's Television v. FCC, 906 F.2d 752 (D.C. Cir. 1990). Additionally, these comments would have to be transmitted with the agency record to the court of appeals. This procedure could be expensive for the Commission and confusing to the reviewing court. Each comment would have to be considered on appeal, even though the reviewing court might not have a sense of appropriate weight to be afforded these comments.

8. We suggest that these comments be afforded treatment substantially similar to that given to informal comments. The Commission could set up emailing addresses targeted to these sorts of comments and sift through them electronically. The Commission could even take advantage of the latest polling features of e-mail software to gather statistical data from large sets of users. However, while this input would be helpful, we maintain that e-mail type comments should not be given the same status as paper comments or electronic comments filed by registered parties.

C. Formats

1. Document Formats

9. This firm believes that filers should be permitted to file documents in all modern word processing formats, including Microsoft Word, WordPerfect, WordPro, RTF and PDF. High-end word processors are currently enjoying a period of expansion and growth in terms of features and presentation capabilities. For example, all of the references to web sites in the electronic version of this document are live links that allow the viewer to jump to the site by mouse clicking. In addition, the multimedia capabilities that are being added to word processors will allow filers to present complex sounds and graphics. For example, a party could attach a sound clip of actual hearing testimony or the actual sound of broadcast station interference. Narrowing the scope of permissible document formats could seriously hamper the ability of parties to use these technologies in their advocacy before the Commission.

10. Most high-end word processors are capable of reading and writing a number of word processing document formats. In addition, most software companies provide free viewers that allow users to view documents with all of the features and capabilities available to a given format.¹

11. Users should not be limited by a fixed word processing document format. Such an approach would only serve to narrow the presentation options available to users.

¹ For example: Word, <http://www.microsoft.com/msoffice/msword/internet/viewer/>; WordPro, <http://www.support.lotus.com/wordpro.html>.

2. Browser Formats

12. The electronic filing system must support all major web browsers.

The entire functionality of the site in terms of searching, downloading and uploading cannot be limited to the proprietary software of a single software company. While browser capabilities differ and certain features are not supported across all browsers, the simple functions of searching, downloading and uploading should be available to all browsers and the system must be designed accordingly.

D. Desirability of Other Media

13. The Commission seeks comment on the desirability and feasibility of distribution using other media. NPRM, ¶14. We feel that the large amounts of data typically filed in rulemaking proceedings will make it awkward for users to obtain these documents exclusively from the Commission's web site. Given the current limited bandwidth of the Internet, downloading all of the comments in a docket could take one or more hours at modem speeds of 14.4 or 28.8. Most software companies recognize this bandwidth issue. Thus, users are routinely offered downloads either via the Internet or on CD-ROM.

14. Since the files would be in electronic form, it would not be difficult for the Commission to provide electronic copies to the public on CD-ROM or floppy disk. This operation could be handled by the copy contractor, or, preferably, by a concern experienced in electronic publishing such as Berry Best or Pike & Fischer. On the other hand, the Commission could make these files available itself. It is certainly no harder to master a CD-ROM containing simple files than it is to convert these files to a web viewable form and present them on

a web page. Without the availability of obtaining all the comments on disk or CD-ROM, parties will still have to resort to obtaining paper copies from the Commission's reference room.

E. Citation to Documents

15. As the Commission correctly observes, pagination of an electronic comment will vary according to the software and hardware used in a given situation. Consequently, all parties should be required to file documents with serially numbered paragraphs. All word processing software has this capability and it should present little problem in implementation while providing a clear and convenient way to refer to specific items within a given comment.

F. Page Limits

16. Currently, the Commission employs page limits on documents filed in rulemaking and other proceedings. See, e.g., 47 CFR §1.49. For the same reasons just articulated in terms of pagination, these page limits will make little sense to electronic filers. Therefore, page limits should be converted to roughly equivalent word limits and the rules changed accordingly. As for users, most word processors have built-in word counting features and those who do not use such a word processor can always count words manually.

G. Filing Times

17. We agree with the Commission that the filing date and time for electronic comments should be the date that the Commission receives the documents. As noted above, by limiting comment filing only to registered filers, confirmation should be simplified and network congestion reduced. Indeed,

without prior registration, individuals could tie-up the network at critical filing times with repetitive and/or abusive filings.

18. The filing time for electronic comments should be extended to 12:00 midnight on the day that a filing is due. There is no reason to arbitrarily maintain the 5:30 PM deadline for comments that are filed in an electronic and wholly automated system.

H. Service of Documents

19. This firm holds that it is still too early to implement electronic service of documents. There is no simple and uniform method of insuring that parties are served with electronic documents. However, we believe that electronic service of documents should be reexamined within a reasonable time after the current proposal is implemented when the Commission and the parties have had greater experience with electronic filing in general.

20. With parties filing electronic documents, its should be easy for the Commission to automatically generate service lists for parties to use in reply comments. Again, this task will be somewhat simpler if the information is taken from a registration database. In any event, service lists for parties wishing to file reply comments should be generated and available for downloading.

I. File Names

21. The Commission should devise a file naming convention for electronic documents. A review of current proceedings shows that parties use names such as "mycomm.com", even though that file may be viewed as program in some operating systems. Here again, prior registration would be of help. At the time of registration a party could be issued a three or four letter code to be

used in file naming. Henceforth, documents filed by that party could be immediately identified.

III. CONCLUSION


22. This firm welcomes electronic filing. If implemented correctly, the quality of the decision making in Commission proceedings could be significantly enhanced. If that is to happen, however, a system of password protection and registration will be required in order to avoid the serious potential for abuse and other mischief. Other matters will also have to be resolved and we have addressed them in these comments.

WHEREFORE, the Law Offices of Henry E. Crawford respectfully submits its comments herein.

May 21, 1997

Respectfully Submitted,

Law Offices of
Henry E. Crawford, Esq.
1150 Connecticut Avenue, N.W.
Suite 900
Washington, D.C. 20036
(202) 862-4395
E-Mail: crawlaw@wizard.net
Web: <http://www.wizard.net/~crawlaw>

By: 
Henry E. Crawford